

Kyle Thomas Facchin /DCR # BK3071
 Name and Prisoner/Booking Number
Growlersburg Conservation Camp
 Place of Confinement
5440 Longview Lane
 Mailing Address
Georgetown, CA 95634
 City, State, Zip Code

FILED
 MAR 01 2021
 CLERK, U.S. DISTRICT COURT
 EASTERN DISTRICT OF CALIFORNIA
 BY: LF
 DEPUTY CLERK

(Failure to notify the Court of your change of address may result in dismissal of this action.)

IN THE UNITED STATES DISTRICT COURT
 FOR THE EASTERN DISTRICT OF CALIFORNIA

Kyle Thomas Facchin
 (Full Name of Plaintiff) Plaintiff,

v.

CASE NO. 1:21-cv-289 JLT (PC)
 (To be supplied by the Clerk)

(1) C.D.C.R. Sgt. Sean Kelley
 (Full Name of Defendant)

(2) Unknown C.D.C.R. officer

(3) Unknown C.D.C.R. officer

(4) _____

Defendant(s).

☐ Check if there are additional Defendants and attach page 1-A listing them.

CIVIL RIGHTS COMPLAINT
 BY A PRISONER
Jury Trial Demanded
☒ Original Complaint
☐ First Amended Complaint
☐ Second Amended Complaint

RECEIVED

A. JURISDICTION

1. This Court has jurisdiction over this action pursuant to:

☐ 28 U.S.C. § 1343(a); 42 U.S.C. § 1983

☒ 28 U.S.C. § 1331; Bivens v. Six Unknown Federal Narcotics Agents, 403 U.S. 388 (1971).

☐ Other: _____

2. Institution/city where violation occurred: Sierra Conservation Center / Jamestown, CA

MAR 01 2021
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 EASTERN DISTRICT OF CALIFORNIA
 BY: DA
 DEPUTY CLERK

B. DEFENDANTS

1. Name of first Defendant: Sean Kelley. The first Defendant is employed as:
Sergeant at Sierra Conservation Center
(Position and Title) (Institution)
2. Name of second Defendant: Unknown C.D.C.R. officer. The second Defendant is employed as:
Correctional officer at Sierra Conservation Center
(Position and Title) (Institution)
3. Name of third Defendant: Unknown C.D.C.R. officer. The third Defendant is employed as:
Correctional officer at Sierra Conservation Center
(Position and Title) (Institution)
4. Name of fourth Defendant: _____. The fourth Defendant is employed as:
_____ at _____
(Position and Title) (Institution)

If you name more than four Defendants, answer the questions listed above for each additional Defendant on a separate page.

C. PREVIOUS LAWSUITS

1. Have you filed any other lawsuits while you were a prisoner? ☐ Yes ☒ No
2. If yes, how many lawsuits have you filed? 0. Describe the previous lawsuits:
 - a. First prior lawsuit:
 1. Parties: _____ v. _____
 2. Court and case number: _____
 3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) _____
 - b. Second prior lawsuit:
 1. Parties: _____ v. _____
 2. Court and case number: _____
 3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) _____
 - c. Third prior lawsuit:
 1. Parties: _____ v. _____
 2. Court and case number: _____
 3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) _____

If you filed more than three lawsuits, answer the questions listed above for each additional lawsuit on a separate page.

D. CAUSE OF ACTION

CLAIM I

1. State the constitutional or other federal civil right that was violated: 8th Amendment, Cruel and Unusual Punishment clause
2. Claim I. Identify the issue involved. Check only one. State additional issues in separate claims.

<input type="checkbox"/> Basic necessities	<input type="checkbox"/> Mail	<input type="checkbox"/> Access to the court	<input type="checkbox"/> Medical care
<input type="checkbox"/> Disciplinary proceedings	<input type="checkbox"/> Property	<input type="checkbox"/> Exercise of religion	<input type="checkbox"/> Retaliation
<input checked="" type="checkbox"/> Excessive force by an officer <input type="checkbox"/> Threat to safety <input type="checkbox"/> Other: _____			
3. Supporting Facts. State as briefly as possible the FACTS supporting Claim I. Describe exactly what each Defendant did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.

On Saturday January 11, 2020 at approximately 0745, I was exiting the cafeteria when Sgt. Kelley ordered me to stop aside for a pat-down. I complied with his order. Sgt. Kelley noticed I had pockets sewn into the seams of my state issued pants. I was ordered by Sgt. Kelley to tear the pockets out from my pants. I tore my left pocket out of my pants, and mentioned to Sgt. Kelley that I was not wearing any underwear. My right pocket would not tear off. I asked Sgt. Kelley if I could return to my dorm, change pants and bring him back those pants. Sgt. Kelley refused. Sgt. Kelley then forcibly grabbed my right pocket and pulled out a knife and cut out the pocket while they were on my person. The knife was inches away from my genitalia. After about 30 seconds of Sgt. Kelley his knife slipped and cut a 3 inch slash in the pants and cutting the skin on my thigh. The holes cut into the pants produced by this action also left my genitalia completely visible to a full chow hall of prisoners as well as a female correctional officer standing 3 feet away. Following this incident, on Monday January 13 at approximately 1730, I was exiting the chow hall when I was pulled aside by Sgt. Kelley for a pat-down. Sgt. Kelley stated "you are the pockets guy, I bet I can see in your pockets now." Sgt. Kelley then joked about the matter to the present correctional officers.
4. Injury. State how you were injured by the actions or inactions of the Defendant(s).

Cut on my thigh by the defendant's knife, emotional distress, frequent nightmares, psychological trauma
5. Administrative Remedies:
 - a. Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution? ☒ Yes ☐ No
 - b. Did you submit a request for administrative relief on Claim I? ☒ Yes ☐ No
 - c. Did you appeal your request for relief on Claim I to the highest level? ☒ Yes ☐ No
 - d. If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not. _____

CLAIM II

1. State the constitutional or other federal civil right that was violated: 8th amendment, Cruel and Unusual punishment clause
2. Claim II. Identify the issue involved. Check only one. State additional issues in separate claims.

<input type="checkbox"/> Basic necessities	<input type="checkbox"/> Mail	<input type="checkbox"/> Access to the court	<input type="checkbox"/> Medical care
<input type="checkbox"/> Disciplinary proceedings	<input type="checkbox"/> Property	<input type="checkbox"/> Exercise of religion	<input type="checkbox"/> Retaliation
<input type="checkbox"/> Excessive force by an officer	<input checked="" type="checkbox"/> Threat to safety	<input type="checkbox"/> Other: _____	
3. Supporting Facts. State as briefly as possible the FACTS supporting Claim II. Describe exactly what each Defendant did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.

The unknown officers stood by while I was assaulted by Sgt. Kelley and did not intervene. The officers then joked with Sgt. Kelley, when I was exiting the chow hall, about my nudity in the chow hall.
4. Injury. State how you were injured by the actions or inactions of the Defendant(s).

Emotional distress, psychological distress - past and future
5. Administrative Remedies.
 - a. Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution? ☒ Yes ☐ No
 - b. Did you submit a request for administrative relief on Claim II? ☒ Yes ☐ No
 - c. Did you appeal your request for relief on Claim II to the highest level? ☒ Yes ☐ No
 - d. If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not. _____

E. REQUEST FOR RELIEF

State the relief you are seeking: \$15,000 compensatory, \$30,000 punitive damages.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 02/13/2021
DATE


SIGNATURE OF PLAINTIFF

(Name and title of paralegal, legal assistant, or
other person who helped prepare this complaint)

(Signature of attorney, if any)

(Attorney's address & telephone number)

ADDITIONAL PAGES

All questions must be answered concisely in the proper space on the form. If you need more space you may attach more pages, but you are strongly encouraged to limit your complaint to twenty-five pages. If you attach additional pages, be sure to identify which section of the complaint is being continued and number all pages. Remember, there is no need to attach exhibits to your complaint.